



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: MAY 13, 2019

ITEM NUMBER: PH-1

**SUBJECT:** PLANNING APPLICATION 19-01 FOR A MARIJUANA MANUFACTURING FACILITY (CR MANUFACTURING) AT 3550 CADILLAC AVENUE

**DATE:** MAY 2, 2019

**FROM:** PLANNING DIVISION / DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY:** JOHNWILLY AGLUPOS, ASSISTANT PLANNER

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## **DESCRIPTION**

Planning Application 19-01 is a request for a conditional use permit for a marijuana manufacturing facility (CR Manufacturing) within a 12,236-square-foot stand-alone industrial building. The proposed facility would include non-volatile manufacturing, involving intake of extracted cannabis constituent products (such as oil) from licensed cannabis distributors for the production of vape pens or vape pen refill cartridges. Final products would be stored, third-party tested, packaged, and labeled for distribution by third-party licensed cannabis distributors. Rooms include production areas, packaging, storage, shipping / receiving and ancillary offices. Licensed cannabis distributors would pull into a secured area inside the building during loading and unloading. The facility would have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation or dispensing of marijuana is permitted.

## **APPLICANT/AUTHORIZED AGENT**

The applicant/authorized agent is Rene Suarez for CR Manufacturing, representing Haute Performance, the property owner.

## **RECOMMENDATIONS**

Staff recommends that the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 19-01, subject to conditions of approval.

## **BACKGROUND**

### ***Project Site/Environs***

The subject site, a 30,056-square-foot property, is located within the northwest quadrant of the City in the Measure X zone. The property contains a stand-alone industrial tilt-up building that is 12,236 square feet in area and was built in 1978. Previous tenants include wholesale distributors and manufacturers of apparel and eyewear.

The site is bounded by industrial businesses such as manufacturing of plastic and electronics, a printing service, and a clinical manufacturing and laboratory use across Cadillac Avenue. The subject site and adjacent properties are zoned Industrial Park (MP) with an Industrial Park General Plan land use designation, which are intended for a variety of industrial and compatible office uses.

### ***City of Costa Mesa Medical Marijuana Measure (Measure X)***

On November 8, 2016, voters approved Measure X, also known as the City of Costa Mesa Medical Marijuana Measure. Measure X allows the following medical marijuana-related uses: distributors, manufacturers, processors, research and development laboratories, as well as testing laboratories and transporters. These uses may only be located in specific Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties north of South Coast Drive, west of Harbor Boulevard, excluding the South Coast Collection (SOCO) property located at 3303 Hyland Avenue. Measure X prohibits the sale and cultivation of marijuana anywhere within the City.<sup>1</sup>

As approved, under Measure X, specified medical marijuana uses were required to obtain all of the following approvals before conducting business within the City:

1. A Medical Marijuana Business Permit;
2. A Conditional Use Permit; and
3. A Business License. Measure X imposes a 6 percent annual gross receipts tax on any marijuana business.

Subsequently on April 3, 2018, the City Council adopted Ordinance No. 18-04 to allow and permit adult-use marijuana products to be manufactured, distributed, transported, tested and developed in the same manner and in the same areas as medical marijuana uses pursuant to Measure X. Non-medical adult use marijuana was not legal under state law at the time of the adoption of Measure X but is now legal under the State's Medicinal and Adult-Use Cannabis Regulation and Safety Act. Ordinance No. 18-04 also removed the prohibition of Measure X uses within 500-feet of Moon Park.

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<sup>1</sup> The Zoning Code, with limited exceptions for personal cultivation as mandated by Proposition 64, also prohibits dispensaries, sales and cultivation. See CMMC § 13-200.84.



## ***Planning Application 19-01***

### ***Marijuana Business Permit (Part 1)***

Per the process described above, the applicant applied for a Marijuana Business Permit (MX-18-0012) for a non-volatile marijuana manufacturing facility on October 9, 2018. The Business Permit application was reviewed by the Community Improvement Division (CID). Review of the Marijuana Business Permit included a background check of the proposed business owner(s) and/or corporation with each owner/officer of the company being required to complete and pass the background check, as well as the required submittal of a business plan and a security plan. Once the above items were reviewed by City staff, a Notice to Proceed letter was issued. The Notice to Proceed letter allows an applicant to file an application for a CUP and was issued for this application on December 19, 2018. An application for the CUP was filed on January 4, 2019.

### ***Marijuana Business Permit (Part 2) and Business License (if CUP Approved)***

Upon approval of a CUP, the applicant would begin the remaining steps of the marijuana business approval process, which include obtaining any required building and fire safety permits and inspections. Upon completion of all of the above steps, the Marijuana Business Permit would be approved. To complete the approval process, the applicant must receive a business license from the City. After approval of the Marijuana Business Permit, the CUP, and the business license, as well as the necessary permits issued by the State Bureau of Cannabis Control, the applicant may begin operation. A Marijuana Business Permit approval is good for a two-year period and may be renewed for additional two-year periods, provided it is extended prior to expiration of the approval period. During the two-year permit period, the CID, along with other City staff, will conduct site visits to verify the operation is in compliance with all Conditional Use and Business Permit requirements. Violations identified during these site visits, including failure to renew their business permit, may be grounds for the revocation of the Business and/or Conditional Use Permits.

## **ANALYSIS**

### ***Proposed Floor Plan and Use***

The applicant is proposing interior improvements within the 12,236-square-foot building, 4,483 square feet of which would be the licensed premise for cannabis product packaging, manufacturing, and storage. The remainder of the building would be ancillary spaces (office, storage, lobby, conference rooms, and break room) to support the cannabis licensed premise. The entire building would be limited-access, except for the mantrap area located at the front of the building where visitors would wait to be approved for entry by a receptionist via video call (See image 1). With regard to State Licensing requirements, the applicant will be applying to operate under a Type 6 license, Non-volatile Manufacturing.



*Image 1 – Licensed Premise and Limited Access Areas*

## **Operation**

There would be four distinct components in the cannabis license premise—material intake, production, packaging, and finished product. Extracted cannabis constituent products (oils, concentrates, and CBD) would be brought to the facility by third-party licensed distributors. No extraction would occur at this facility. The products would be delivered to the shipping and receiving area, which is within the “Limited Access” area of the building. Only authorized personnel issued identification badges by the City would have access to restricted areas. Cannabis products, tested by a third-party, would be reviewed for quality, recorded, and checked-in. Thereafter, such products would be moved to the storage area to be organized and stored in the DEA storage cage until they are ready to be used for manufacturing. Within the packaging/manufacturing area, cannabis oil would be filled into cartridges using filling machines. These cartridges would either be packaged and labeled as individual products to be sold as refill cartridges, or assembled into vape pens. The cartridges would then be packaged and labeled for distribution by licensed third-party distributors. At each phase of cannabis product production, from raw material intake to manufacturing to finished product to shipment, cannabis products be documented via a Track-and-Trace system (See image 2).





*Image 2 – Product Flow*

Vehicles operated by separate licensed distributors would be pulled into the building through the existing roll-up door which would be closed after the vehicle pulls in/out and during the loading/unloading process. The loading area would be free and clear of any cannabis products whenever the roll-up doors are open. Prior to a distributor's arrival, they are required to give notice to authorized personnel. Upon arrival, an authorized manager would escort the distributor vehicle to the loading area. Per Condition of approval (COA) No. 1, no distribution would be allowed to occur between 12 AM midnight and 5 AM. No loading and unloading of raw materials or finished products into the vehicles would take place outside of the building. Video surveillance cameras would be installed on the exterior of the building with direct views of the exterior roll-up door.

Security measures proposed to be installed throughout the facility include: a video surveillance system installed at all exterior entrances and in all interior rooms, a monitored burglar alarm system, and entry card readers. A detailed security plan was submitted to the Development Services Department as part of the application and was reviewed by HdL, the City's security consultant. HdL also inspected the building with the applicant and Planning staff on January 28, 2019 and recommended additional operational COAs as discussed later in this report.

The attached description letter provided by the applicant, which has also been reviewed by HdL, includes more detail regarding the above described activities and the areas within the building where these activities would occur (Attachment 3).

## **Odor Management**

Carbon filtration systems, specifically an exhaust filter, would be provided to address odor management and prevent any odor from being exhausted into the air. Further, COAs require incorporation of odor control devices to ensure that odors from marijuana are not detected outside the property, anywhere on adjacent property or public right-of-way, or within any other non-cannabis tenant space located within the same building as the marijuana business (COA No. 22).

## **GENERAL PLAN AND ZONING CODE CONFORMANCE**

### ***Conformance with the City of Costa Mesa General Plan***

The Costa Mesa General Plan establishes the long-range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa for the next two decades. This vision focuses on protecting and enhancing Costa Mesa's diverse residential neighborhoods, accommodating an array of businesses that both serve local needs and attract regional and international spending, and providing cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan.

The following analysis evaluates the proposed project's consistency with specific policies and objectives of the 2015-2035 General Plan.

1. **Policy LU-1.1:** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services and employment opportunities in consideration of the need of the business and residential segments of the community.*

**Consistency:** The proposed use would provide a new entrepreneurial business in Costa Mesa as allowed under Measure X and provide new employment opportunities in the community.

2. **Policy LU-3.1:** *Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks), from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

**Consistency:** The proposed use would not be located near residentially-zoned properties. Therefore, the proposed use is consistent with this General Plan policy.

3. **Policy LU-6.15:** *Promote unique and specialized commercial and industrial districts within the City which allow for incubation of new or growing businesses and industries.*



**Consistency:** The proposed use is part of a growing industry and is proposed in a location specifically identified for such uses by the City's electorate through Measure X. Therefore, approval would encourage new businesses and entrepreneurial opportunities in an area of the City identified for such by local voters.

### **Conformance with the Zoning Code**

The proposed use, as conditioned, would meet the intent of the City's Zoning Code with regard to the MP zone, as the use would entail manufacturing within an existing industrial building zoned for that use. Manufacturing related to marijuana requires approval of a Conditional Use Permit.

### **JUSTIFICATIONS FOR APPROVAL**

Pursuant to Title 13, Section 13-29(g), Findings, of the Costa Mesa Municipal Code, in order to approve the project, the Planning Commission must find that the evidence presented in the administrative record substantially meets specified findings as follows.

#### **Required Findings**

- The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area. The proposed use is a manufacturing use and, with the recommended COAs, will be consistent with the other industrial uses in the immediate vicinity. Compliance with the conditions of approval, as discussed in the following section, will allow this use to operate with minimal impact on surrounding properties and uses.
- Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood. The proposed use is within an existing building and is consistent with the MP zoning of the property and the properties immediately abutting the site. The recommended COAs, including those related to odor control and outdoor loading and unloading, are intended to ensure that the project would not be materially detrimental to the health, safety and general welfare of the public or be otherwise injurious to property or improvements within the immediate neighborhood. Measures designed to maintain security at the facility, as proposed and conditioned, include a monitored video surveillance system (covering all exterior entrances, all paths of travel to and from the designated loading/unloading area, and all interior spaces of the facility).
- Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property. The use is consistent with the General Plan goals and policies as discussed earlier in this report. The proposed use is within an existing building and there are no proposed additions to the building; therefore, there is no change to



density or intensity. In addition, the proposed use is a conditionally permitted use in the industrial zone.

### ***Conditions of Approval***

More than 30 COAs are included in the Administrative Regulations for uses subject to Measure X, beyond standard COAs for CUPs. These new conditions were developed specifically for marijuana uses. These conditions include, but are not limited to, the following:

- Business identification signage shall be limited to that needed for identification only. Business identification signage shall not include any references to marijuana, whether in words or symbols. All signs shall comply with the Costa Mesa Municipal Code. No sign shall be installed until the owner/operator or its designated contractor has obtained any permit required from the City. (COA No. 7).
- Cannabis shall not be consumed on the premises at any time, in any form. (COA No. 14).
- No outdoor storage of cannabis or cannabis products is permitted at any time. (COA No. 15).
- Persons under the age of twenty-one (21) years shall not be allowed on the premises of this business, including employees of the business. (COA No. 18).
- No cannabis or cannabis products, or graphics depicting cannabis or cannabis products, shall be visible from the exterior of this property, or on any of the vehicles owned or used as part of the marijuana business. (COA No. 20).
- Each entrance to the business shall be visibly posted with a clear and legible notice stating the following (COA No. 21):
  - That smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the marijuana business is prohibited.
  - That no person under the age of twenty-one (21) years of age is permitted to enter upon the premises.
  - That loitering by persons outside the facility both on the premises and within fifty feet (50') of the premises is prohibited.
- All employees must wear an identification badge while on the premises of the business, in a format prescribed by the City Manager. (COA No. 25).
- The business must obtain any and all licenses required by state law and/or regulation prior to engaging in any cannabis activity at the property. (COA No. 30).
- Any change in the operational characteristics of the use shall be subject to Planning Division review and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change (COA No. 33).
- The sale, distribution, and/or furnishing of marijuana or marijuana product to any entity that does not possess currently valid marijuana permits and licenses to engage in such activity is prohibited. (COA No. 39).



In addition, staff has added the additional security-related conditions below, to be implemented during the plan check process, as recommended by the City's security-consultant, HdL. (COA No. 40). The applicant's plans have already been revised to reflect these conditions.

- Steel grate walls are required as barriers to the Packaging area and the Oil Storage and Finished Goods area; the applicant shall provide the specifications for the steel grate walls for approval by Planning Division staff, prior to issuance of building permits.
  - Licensed premise (4,483 square feet of the 12,236-square-foot building) shall be clearly delineated on the plans from the non-licensed premise.
  - Security diagram shall remain consistent in all submitted documents including the Security Plan.
  - Increase security at all windows and glass panes by equipping them with an intrusion-resistant film or other approved security measure.
  - Install DEA approved wire security cage.
- Staff has also included the following site-specific COAs relating to the third-party distribution and delivery activities:
    - Any activities relating to the loading and unloading of cannabis products shall take place in a designated loading area approved by the City. No loading and unloading of cannabis products into the vehicles will take place outside of the building. Video surveillance cameras will be installed on the exterior of the building with direct views of the exterior roll-up door. (COA No. 41).
    - The loading area shall be free and clear of any cannabis products whenever the roll-up doors are open. Prior to a distributor's arrival, distributors are required to give notice to authorized facility personnel. Upon arrival, an authorized manager shall escort the distributor vehicle to the loading area. (COA No. 42).

### ***Completion of the Marijuana Business Permit and Business License***

As noted above, obtaining approval of the CUP is only part of the process involved with obtaining a Marijuana Business Permit and commencement of business operations. If the CUP is approved by the Planning Commission, the applicant will be required to obtain the necessary final approvals from CID, Building Safety, Fire Prevention, and the Finance Department in order to finalize the Marijuana Business Permit and obtain a business license from the City. Additionally, the applicant must also receive approval from the State of California to operate the marijuana business.

### **ENVIRONMENTAL DETERMINATION**

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Class 1) for Existing Facilities. The project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations.



## **LEGAL REVIEW**

The draft resolution has been reviewed and approved as to form by the City Attorney's Office.

## **PUBLIC NOTICE**

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. Mailed notice. A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property. (See attached Notification Radius Map.)
2. On-site posting. A public notice was posted on each street frontage of the project site.
3. Newspaper publication. A public notice was published once in the Daily Pilot newspaper.

As of the date of this report, no written comments have been received from the public. Any public comments received after the date of this report but prior to the Planning Commission hearing will be provided separately.

## **ALTERNATIVES**

The Planning Commission may take one of the following actions.

1. Approve the project, as proposed. The Planning Commission may approve the project, subject to the conditions of approval as recommended by staff. A Resolution for approval is provided as Attachment 5.
2. Approve the project with modifications. The Planning Commission may suggest specific changes that are necessary to alleviate concerns raised at the public hearing regarding the proposed use. If any requested changes are substantial, the item should be continued to a future meeting to allow for a redesign or additional analysis. In the event of significant modifications to the proposal, staff will return with a revised resolution incorporating new findings and/or conditions.
3. Deny the project. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application, provide facts in support of denial and direct staff to modify the Resolution to reflect the findings for denial. If the project were to be denied, the applicant could not submit substantially the same type of application for six months.

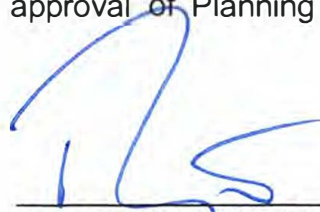


## CONCLUSION

The use, as conditioned, reflects a use that is consistent with the intent of the Zoning Code, the City's General Plan, and the City of Costa Mesa's Marijuana Measure (Measure X) as revised. Therefore, staff recommends approval of Planning Application 19-01, subject to conditions.



JOHN WILLY AGLUPOS  
Assistant Planner



BARRY CURTIS, AICP  
Director of Economic and Development  
Services

- Attachments:
1. [Vicinity, Zoning, and Notification Radius Map](#)
  2. [Site Photos](#)
  3. [CUP Letter, Operational Plan, Odor Control Plan, Security Diagram and Preliminary Safety and Fire Plan](#)
  4. [Project Plans](#)
  5. [Draft Planning Commission Resolution and Exhibits](#)

Distribution:

- Director of Economic and Development Services
- Assistant Director of Development Services
- Assistant City Attorney
- Director of Public Services
- City Engineer
- Transportation Services Manager
- Fire Protection Analyst
- File

Applicant:

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Owner:

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